(4) SINGLE BENCH

CF1002

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR (C.G.)

WRIT PETITION (S) NO. 591 /2007

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA.

PETITIONER

Gautam Prasad Naik, son of Dibyanand Nayak, aged about 44 years, presently posted and working as Multi Purpose Worker (MPW) Section Madva, Community, Health Centre, Dabra, Dist Janjgir-Champa (CG)

P.R. No. 6501/07
Presented by Shri Y. Mishra
dated 19/1/07

VERSUS

RESPONDENTS

1. The State of Chahttisgarh, through – the Secretary, Deptt of Health, D.K.S. Building, Mantralay, Raipur (C.G.)

2. Under Secretary, Deptt of Healtyh, D.K.S. Building, Mantralay, Raipur (CG)

3. Chief Medical Officer, District Janjgir-Champa (CG)

4. Block Medical Officer, Dabra, Distt. Janjgir-Champa (CG)

RECEIVED-COPY
19/1/07
CLERK to A. G. BILASPUR

The petitioner respectfully submits as under:-

(47)

Sati
31

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 591 of 2007

Petitioner: Gautam Prasad Naik

Versus

Respondents: The State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri H.S. Patel, Advocate for the petitioner.
Shri Arvind Dubey, Panel lawyer for the respondents/State.

ORDER

(Passed on 31st day of January, 2007)

1. Learned counsel appearing for the petitioner submits that by order dated 7.7.2006 (Annexure P/1) the petitioner was transferred from Madwa Community Health Centre, Janpad Panchayat Dabhra, District Janjgir-Champa to Sub-Health Centre, Mahora, Block Baikunthpur, District Koriya on his own expenses.

2. Earlier, the petitioner had filed a writ petition, being W.P. No. 3867/2006, challenging the validity of the said order. This Court, after hearing learned counsel for the parties, granted liberty to the petitioner to make detailed representation. The respondent No. 2 therein, Under Secretary, Department of Health, D.K.S. Building, Mantralaya, Raipur, Chhattisgarh was directed to consider and decide the same within 30 days from the date of its receipt. It was

(48)

further directed that in the mean while, if the petitioner was not relieved till date, he would not be relieved till the representation filed by him was decided.

3. The respondent No. 2, by the order dated 3.1.2007 (Annexure P/2), after having considered the representation of the petitioner, pursuant to the order dated 7.8.2006, passed by this Court, rejected the representation on the ground that the order of transfer was passed on the basis of several complaints against him.

4. The petitioner has filed this petition impugning the order dated 3.1.2007 (Annexure P/2), passed by the respondent No. 2.

5. It is well settled that the transfer of an employee can be made on the basis of complaints. Transfers unless they involve any such adverse impact or visit the persons concerned with any penal consequences, are not required to be subjected to same type of scrutiny, approach and assessment as in the case of dismissal, discharge, reversion or termination and utmost latitude should be left with the department concerned to enforce discipline, decency and decorum in public service which are indisputably essential to maintain quality of public service and meet untoward administrative exigencies to ensure smooth functioning of the administration. For the purposes of effecting a transfer, the question of holding an enquiry to find out whether the complaint was true, is unnecessary and what is needed is the prima facie satisfaction of the authority

(49)

concerned on the contemporary reports about the occurrence complained of and if the requirement, as submitted by the respondents, of holding an elaborate enquiry is to be insisted upon, the very purpose of transferring an employee in public interest or exigencies of administration to enforce decorum and ensure probity would get frustrated. *(See Union of India and others v. Janardhan Debanath and another) {(2004) 4 SCC 245 at page 251}.*

6. Further, it is well settled principle of law that transfer is an incidence of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the cases of proved mala fide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. None of the above grounds are available to the petitioner.

7. The writ petition is accordingly dismissed summarily. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu